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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/588,854

08/09/2006

Kenzo Kase

039371-18

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5179 7590 12/23/2008

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ALBUQUERQUE, NM 87102

EXAMINER

HICKS, VICTORIA J

ART UNIT

PAPER NUMBER

3772

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DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/588,854	<b>Applicant(s)</b> KASE, KENZO	
	<b>Examiner</b> VICTORIA HICKS	<b>Art Unit</b> 3772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 August 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8/9/06</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

**This action is in response to the application filed on August 9, 2006.**

### ***Priority***

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Specification***

Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:

- (1) if a machine or apparatus, its organization and operation;
- (2) if an article, its method of making;
- (3) if a chemical compound, its identity and use;
- (4) if a mixture, its ingredients;
- (5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

Applicant is reminded of the proper language and format for an abstract of the disclosure.

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The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract is objected to because it does not comply with the proper format for U.S. practice. For example, the abstract is two paragraphs rather than one paragraph.

### ***Claim Objections***

1. Claim 2 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The disclosure of how the tape is obtained does not further limit the tape structure of claim 1.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Lucast et al. (US patent 6,103,369).

[Claim 1] In column 3, lines 29-30 Lucast et al. teaches a tape having a pattern coated adhesive. In column 6, lines 39-41 Lucast et al. teaches that the tape has a base material that is an elastomeric polyether film, which is a stretch material. In Figure 4, Lucast et al. teaches recessed grooves in the adhesive layer (56) extending in the tape (50) width direction that are arranged at a spacing in the tape (50) longitudinal direction. There is provided an array configuration composed of pattern arrays in which the length of said recessed grooves changes stepwise repeating a gradual increase and decrease in the tape (50) longitudinal direction.

[Claim 2] In regards to claim 2, Lucast et al. teaches the apparatus of claim 1 (see rejection of claim 1). In column 3, lines 29-30 Lucast et al. teaches a tape having a pattern coated adhesive. In Figure 4, Lucast et al. teaches that this pattern is disposed in parallel at a predetermined spacing in the tape width direction into a desired width.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 3-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lucast et al. (US patent 6,103,369) in view of Kase (US patent 5,861,348).

[Claim 3] In regards to claim 3, Lucast et al. teaches the apparatus of claim 1 (see rejection of claim 1). Lucast et al. does not teach that the spacing between adjacent recessed grooved decreases stepwise from the shortest recessed groove toward the longest recessed groove. In Figure 1, Kase teaches an analogous device in which the spacing between adjacent recessed grooves (6) decreases stepwise from the shortest recessed groove (6) toward the longest recessed groove (6). It would have been obvious for one having ordinary skill in the art at the time of invention to modify the body adhesive tape taught by Lucast et al. with the spacing taught by Kase because this element is known to enable the body adhesive tape taught by Lucast et al. to attach anywhere on the body and respond to tension due to body movement from any direction, as Kase teaches in the abstract.

[Claim 4] In regards to claim 4, Lucast et al. teaches the apparatus of claims 1 and 2 (see rejection of claims 1 and 2). Lucast et al. does not teach that the spacing between adjacent recessed grooved decreases stepwise from the shortest recessed groove toward the longest recessed groove. In Figure 1, Kase teaches an analogous device in which the spacing between adjacent recessed grooves (6) decreases

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stepwise from the shortest recessed groove (6) toward the longest recessed groove (6). It would have been obvious for one having ordinary skill in the art at the time of invention to modify the body adhesive tape taught by Lucast et al. with the spacing taught by Kase because this element is known to enable the body adhesive tape taught by Lucast et al. to attach anywhere on the body and respond to tension due to body movement from any direction, as Kase teaches in the abstract.

[Claim 5] In regards to claim 5, Lucast et al. teaches the apparatus of claim 1 (see rejection of claim 1). Lucast et al. does not teach that the spacing between adjacent recessed grooved increases stepwise from the shortest recessed groove toward the longest recessed groove. In Figure 1, Kase teaches an analogous device in which the spacing between adjacent recessed grooves (6) increases stepwise from the shortest recessed groove (6) toward the longest recessed groove (6). It would have been obvious for one having ordinary skill in the art at the time of invention to modify the body adhesive tape taught by Lucast et al. with the spacing taught by Kase because this element is known to enable the body adhesive tape taught by Lucast et al. to attach anywhere on the body and respond to tension due to body movement from any direction, as Kase teaches in the abstract.

[Claim 6] In regards to claim 6, Lucast et al. teaches the apparatus of claims 1 and 2 (see rejection of claims 1 and 2). Lucast et al. does not teach that the spacing between adjacent recessed grooved increases stepwise from the shortest recessed

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groove toward the longest recessed groove. In Figure 1, Kase teaches an analogous device in which the spacing between adjacent recessed grooves (6) increases stepwise from the shortest recessed groove (6) toward the longest recessed groove (6). It would have been obvious for one having ordinary skill in the art at the time of invention to modify the body adhesive tape taught by Lucast et al. with the spacing taught by Kase because this element is known to enable the body adhesive tape taught by Lucast et al. to attach anywhere on the body and respond to tension due to body movement from any direction, as Kase teaches in the abstract.

[Claim 7] In regards to claim 7, Lucast et al. and Kase teach the apparatus of claims 1-6 (see rejection of claims 1-6). Lucast et al. does not teach that the base material, which is non-adherent, is exposed through the bottom surfaces of the recessed grooves. In the abstract, Kase teaches an analogous device in which the base material (3, 4) is exposed through the bottom surfaces of the recessed grooves (6). This is further taught by Kase in Figure 3. In column 3, lines 41-44 Kase teaches that the base material (3, 4) is formed from a warp thread (3) and a weft thread (4), the warp thread (3) including a stretch thread twisted together with a standard fiber, the weft thread (4) being a normal thread. Thus, the base material (3, 4) is non-adherent. It would have been obvious for one having ordinary skill in the art at the time of invention to modify the body adhesive tape taught by Lucast et al. with the exposed base material taught by Kase because this feature is known to provide moisture permeability to the



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body adhesive tape taught by Lucast et al., which prevents the tape from peeling off due to sweat when it is applied, as Kase teaches in column 3, lines 28-31.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to VICTORIA HICKS whose telephone number is (571)270-7033. The examiner can normally be reached on Monday through Thursday, 7:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco can be reached on (571) 272-4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/V. H./

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Examiner, Art Unit 3772  
12/17/08

/Patricia Bianco/  
Supervisory Patent Examiner, Art Unit 3772